RESOLUTION NO. R-2013-14

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS PROPOSED AMENDMENTS TO THE CITY OF NORTH MIAMI CHARTER, AS AMENDED, PURSUANT TO SECTION 6.03 OF THE MIAMI-DADE COUNTY CHARTER AND SECTION 6-49 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, AND IN ACCORDANCE WITH THE COMPREHENSIVE REVIEW AND RECOMMENDATIONS OF THE CITY OF NORTH MIAMI CHARTER REVIEW BOARD, AS REVIEWED, REVISED, AND APPROVED FOR SUBMITTAL BY THE MAYOR AND CITY COUNCIL; PROVIDING FOR REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL; CALLING FOR AN ELECTION ON THE PROPOSED AMENDMENTS TO THE CITY CHARTER TO BE HELD ON MAY 14, 2013; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR PROCEDURE FOR BALLOTING; PROVIDING FOR INCLUSION IN THE CITY CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

WHEREAS, Section 6.03 of the Miami-Dade County Charter and Section 6-49 of the City of North Miami ("CITY") Code of Ordinances ("Code"), provide the manner in which Charter amendments shall be proposed; and

WHEREAS, pursuant to the comprehensive review and recommendations of the City of North Miami Charter Review Board, the Mayor and City Council desire to submit the proposed Charter amendments for approval or rejection by the electorate; and

WHEREAS, pursuant to law, the electors of the City shall have the power to approve or reject at the polls, any of the proposed Charter amendments submitted by the Mayor and City Council to a vote of the electors.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the above-stated recitals are hereby adopted and confirmed.

Section 2. **Charter Amendments.** That pursuant to Section 6.03 of the Miami-Dade County Charter and Section 6-49 of the City of North Miami Code of Ordinances, and in accordance with the comprehensive review and recommendations of the City of North Miami Charter Review Board, the City of North Miami Charter is hereby amended by amending Section 8 "Powers of the City", Section 10 "Number; Selection; Term", Section 14 "Powers", Section 15 "Vacancies on the Council", Section 16 "Creation of New Departments or Offices; Changes of Duties", Section 17 "Procedures for Passing Ordinances Generally", Section 27 "Budget a Public Record", Section 28 "Publication of Notice of Public Hearing(s)", Section 29 "Public Hearing(s) on Budget", Section 30 "Vote Required for Adoption", Section 32 "Effective Date of Budget; Copies Made Available", Section 33 "Budget Establishes Appropriations", Article VII "Department of Personnel", and Section 67 "Recall of Elected Officials", to read as follows:

CHARTER OF THE CITY OF NORTH MIAMI

ARTICLE I. GENERAL

Sec. 8. Powers of the city.

(a) The city shall have all the powers granted to municipal corporations and to cities by the Constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage, and control such property as its interests may require. No property of the city shall be sold for less than ninety (90) percent of the appraised value of the property as determined by ~~a~~ at least two (2) city secured MAI appraisals. Except as prohibited by the Constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers, which, under the Constitution of this state, it would be competent for this charter specifically to enumerate.

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ARTICLE III. THE COUNCIL

Sec. 10. Number; selection; term.

(1) The city shall be governed by a mayor and city council. The council shall consist of four (4) councilmembers and a mayor. Four (4) single member districts shall be created for the election of four (4) councilmembers, with such districts to be determined by city ordinance.

(2) Each candidate for council shall run in one (1) of four (4) districts designated as Districts 1, 2, 3, and 4. The mayor shall be elected at large. The terms of the councilmembers shall end on the fourth Tuesday of May of the fourth year of their term or when their successors in office are elected and sworn into office beginning with the election in 2013.

(3) On the second Tuesday in May of each odd-numbered year, two (2) councilmembers shall be elected for a four-year term. No councilmember including the mayor shall serve more than two (2) consecutive terms beginning with the election in 2013. The mayor shall be elected for a two year term. Service will be deemed consecutive unless there is a two-year period during which the individual does not serve as councilmember or mayor ("Break in Service"). Any person serving the maximum amount of years as mayor must have a two-year Break in Service before serving as councilmember. Any person serving the maximum amount of years as councilmember is not mandated to have a two-year Break in Service before serving as mayor. A councilmember candidate must continuously reside and submit a Florida government issued identification (ID) plus one type of residency showing that the candidate has continuously resided in the district for which the candidate is seeking election, for a period of one (1) year prior to the time of qualification and thereafter. A councilmember who changes residence to a location outside of the district shall immediately vacate such office, and such vacancy shall be filled pursuant to this charter. The mayor shall not serve as mayor for more than two (2) consecutive terms and must be a continuous resident of the city for one year prior to the time of qualification and thereafter. Councilmembers serving an unexpired term who desire to run for the office of mayor or in another district shall resign as required by state law. Whenever the term council or councilmembers is used in this charter, it shall be deemed to mean and include the mayor unless otherwise specifically provided.

Sec. 14. Powers.

All powers of the city and the determination of all matters of policy shall be vested in the council. Without limitation of the foregoing, the council shall have power to:

(1) Appoint and remove the city manager and city attorney;

~~(2) Establish other administrative departments and distribute the work of divisions;~~

~~(3)~~(2) Adopt the city budget;
~~(4)~~ (3) Authorize the issuance of bonds by a bond ordinance;

~~(5)~~(4) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;

~~(6)~~ (5) Appoint such boards as may be necessary to perform the duties of this charter;

~~(7)~~ (6) Adopt plats;

~~(8)~~ (7) Adopt and modify the official map of the city;

~~(9)~~ (8) Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations and the location and use of buildings for trade, business, residence or other purpose in total conformity with the Comprehensive Plan, as may be amended from time to time.

~~(10)~~ (9) Provide for safe and sanitary housing accommodations for families of low income;

~~(11)~~ (10) Create a housing authority;

~~(12)~~ (11) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas;

~~(13)~~ (12) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

~~(14)~~ (13) Provide for an independent audit;

~~(15)~~ (14) The council shall have and exercise all powers of the city not specifically conferred upon other officers and employees. It may delegate any powers except the power to fix the rate of taxes, enact ordinances and resolutions, adopt a budget and tax roll, or appropriate money;

~~(16)~~ (15) The council shall have the power of granting franchises for public utilities by ordinance~~.~~;

(16) The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter;

(17) Adopt legislation;

(18) Determine the tax levied;

(19) The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

Sec. 15. Vacancies on the council.

Vacancies on the council shall be filled for the remainder of the unexpired term of the councilmember whose seat becomes vacant in the following manner:

(1) If the vacancy occurs because of resignation by a councilmember who is seeking other elective office, the election for which office includes the electors of the City of North Miami, such councilmember must file a written resignation with the city clerk at least ten (10) days prior to the earliest qualifying date for such other elective office (the resignation to become effective upon a successor's being sworn into office) and a successor shall be elected in the same election

with qualifying concurrent with the qualifying dates of the office sought by the resigning councilmember.

~~(2) All other vacancies shall be filled in the next election being held in the City of North Miami whether a city election or general election if the election occurs more than forty-five (45) days and less than one hundred twenty (120) days after the occurrence of the election vacancy. Otherwise, any vacancy on the city council shall be filled by majority vote of the remaining members of the city council within sixty (60) days after the occurrence of the vacancy, or the city council may notify the city clerk or deputy city clerk to call a special election, in no less than sixty (60) days more than one hundred twenty (120) days after the occurrence of the vacancy. The person appointed to fill the office vacated must at the time of appointment be a qualified elector of the City of North Miami as required in Article II, Section 5 of the City Charter city charter. A person appointed shall serve only until the next election, whether regular city council election, special city election or any county-wide or general election. A person so elected shall serve for the remainder of the unexpired term of office.~~

(2) If the office of a councilmember becomes vacant on or before the councilmember has served one half of his or her term plus one day, a regular or special election shall be held within sixty (60) days to fill the vacancy for the balance of the term. If the office of a councilmember becomes vacant more than one half of his or her term plus one day after the councilmember takes office, then the remaining members of the council shall choose a successor and such appointee shall fill the vacancy for the balance of the term.

(3) In accordance with subsection (1) or (2), if a vacancy is to be filled at other than a regular city election, and the city clerk certifies that the city candidates cannot be included on the ballot, then the vacancy shall be filled as provided in subsection (2) as though there were no other election being held.

(4) Nominations and the conduct of the election shall be as otherwise provided in this charter and by law, and notice of election shall be posted in the city hall and published in a newspaper of general circulation in the City of North Miami once a week for four (4) consecutive weeks preceding the holding of the election.

~~**Sec. 16. Creation of new departments or offices; changes of duties.**~~

~~The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.~~

~~**Sec. 17. Procedures for passing ordinances generally.**~~

~~The city council shall have the power to make and establish for the government of the City of North Miami and the officers of the city, ordinances in writing not inconsistent with this charter, the Constitution and laws of the State of Florida and of the United States, as it may deem necessary.~~

~~Each ordinance shall be introduced in writing and shall embrace one subject and matters properly connected with the ordinance. The subject shall be clearly stated in the title. The enacting clause shall be "BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL ...." No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. A proposed ordinance may be read by title, or in full, on at least two (2) separate dates and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting, the title or titles of proposed ordinances, and the place or places within the municipality where the proposed ordinance may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. No ordinance shall be declared invalid by reason of any defect in publication or title if the published summary gives reasonable notice of its intent. At the time and place advertised, or at any time and place to which such public hearing may, from time to time, be continued, the ordinance shall be read by title and a public hearing shall be held. After the hearing, the city council may pass the ordinance with or without amendment. The effective date shall not be earlier than ten (10) days after its enactment, or as provided in the ordinance.~~

~~Proposed ordinances which enact or amend the city's zoning ordinance or comprehensive plan of the City of North Miami shall be adopted according to the requirements set forth in the city's zoning ordinance. All other ordinances or resolutions or other official action shall require three affirmative votes of the entire council.~~

~~To meet a public emergency affecting life, health, property or public safety, the city council by a four-fifths (4/5) vote of the entire council may adopt an emergency ordinance at the meeting at which it is introduced and may make it effective immediately. After adoption of an emergency ordinance, the city council shall cause it to be published in full within ten (10) days in a newspaper of general circulation in the municipality. No emergency ordinance shall be enacted which enacts or amends a land use plan or which rezones private property.~~

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ARTICLE V. BUDGET, TAXATION AND FINANCE

~~Sec. 27. Budget a public record.~~

~~The budget and all supporting schedules shall be a public record in the office of thee city clerk open to public inspection by anyone. The city manager shall cause sufficient copies of the budget to be prepared for distribution to interested persons.~~

~~Sec. 28. Publication of notice of public hearing(s).~~

~~At a meeting of the council, the council shall determine the place and time of the public hearing(s) on the budget, in accordance with state law, and shall cause to be posted in the city hall of North Miami a notice of the time and place of the budget hearing(s).~~

~~Sec. 29. Public hearing(s) on budget.~~

~~At the time and place so advertised, or at any time and place to which such public hearing(s) shall from time to time be adjourned, the council shall hold public hearing(s) on the budget as submitted, at which all interested persons shall be given an opportunity to be heard on any item thereof.~~

~~Sec. 30. Vote required for adoption.~~

~~The budget shall be adopted by the favorable votes of at least a majority of all the members of the council.~~

Sec. ~~31~~27. Date of final adoption; failure to adopt.

The council shall adopt a final budget and thereupon shall fix the millage, or rate of taxation and levy taxes sufficient to pay the amounts included in the budget so adopted. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the current fiscal year. Should the council take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the council.

~~Sec. 32. Effective date of budget; copies made available.~~

~~Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be filed in the office of the city clerk. The budget so adopted shall be printed, mimeographed or otherwise reproduced and sufficient copies thereof shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.~~

~~Sec. 33. Budget establishes appropriations.~~

~~From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.~~

Sec. ~~34~~28. Budget establishes amount to be raised by property tax; certification to taxing authority.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city, in the corresponding tax year. The city manager or designee shall file the required documents in accordance with applicable law.

Sec. ~~35~~29. Budget.

The budget shall provide a complete financial plan for the upcoming fiscal year and shall be in such form as the city manager deems desirable. It shall include, at least the following information:

(1) Fund summary. A summary of the amounts proposed in each of the funds;

(2) Anticipated income. Estimates of all anticipated income from all sources, showing the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years;

(3) Proposed expenditures. Estimates of all proposed expenditures, showing the expenditures for corresponding items for the last preceding and current fiscal years;

(4) Tax rate. Summary of the tax rate by fund including the debt service;

(5) Capital program. A list of proposed new capital items and their respective amounts and a separate plan for a five-year capital improvement program, prepared by the planning commission, for the five (5) fiscal years next succeeding the budget year;

(6) Such other supporting schedules as the manager deems necessary.

Total anticipated revenues shall equal total proposed expenditures.

Sec. ~~36~~30. Contracts extending beyond one year.

No contract involving the payment of money out of the appropriations of more than one (1) year shall be made for a period of more than five (5) years; nor shall any such contract be valid unless made or approved by ordinance.

Sec. ~~37~~31. Official bonds.

The city manager, the director of finance and such other officers or employees as the council may by general ordinance require so to do, shall give bond in such amount and with such surety as may be approved by the council. The premiums on such bonds shall be paid by the city.

Sec. ~~38~~32. Property subject to tax.

All real property and personal property within the city not expressly exempted by law shall be subject to annual taxation at its true value.

Sec. ~~39~~33. Taxes, state law to apply.

The general law of the State of Florida upon the subject of taxation shall apply to and govern in the assessment, levy and collection of taxes in the City of North Miami and in the return and sale of property delinquent therefor; and in the penalties for the nonpayment thereof, and shall also apply and govern in respect to the powers, duties and liabilities of persons and property touching and concerning such taxes, and shall have full force and effect in said city as far as same may be applicable, except as herein otherwise provided.

Sec. ~~40~~34. Power to incur indebtedness by issuing bond and notes.

The city may incur indebtedness by issuing its negotiable bonds, and notes in anticipation of bonds, pursuant to this charter, to finance any capital project which it may lawfully construct or acquire.

Sec. ~~41~~35. Bond ordinance; vote required.

The city shall authorize the issuance of bonds by a "bond ordinance" passed by the affirmative votes of at least three-fifths of all the members of its council, as provided by this charter.

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~~**ARTICLE VII. DEPARTMENT OF PERSONNEL**~~

~~Sec. 44. Merit basis of appointment.~~

~~Appointments and promotions in the administrative service of the city shall be made according to merit and fitness to be ascertained, so far as practicable, by competitive examination.~~

~~Sec. 45. Personnel director; qualifications.~~

~~The personnel director shall have had training and experience in personnel administration.~~

~~Sec. 46. Personnel director; powers and duties.~~

~~The personnel director shall have power and shall be required to:~~

~~(1) Hold all competitive examinations required under 44 of the charter, given for appointments in the classified service, (except for the position of personnel director, which competitive examination, when given, shall be administered as directed by the city council), restricted to persons reasonably qualified to perform the duties of the position;~~

~~(2) Give wide publicity through appropriate channels in each case to all announcements of competitive examinations to the end of encouraging qualified persons to take such examinations;~~

~~(3) Prepare and recommend to the personnel board such rules as he may consider necessary, appropriate or desirable to carry out the provisions of this article as provided in 51 of this charter;~~

~~(4) Prepare, install, and maintain a classification plan based on the duties, authority and responsibility of positions in the city service;~~

~~(5) Prepare and maintain a pay plan in the city service;~~

~~(6) Establish and maintain a roster of all persons in the municipal service in which there shall be set forth, as to each officer and employee, (a) the class title of the position held, (b) salary or pay, (c) any changes in class title, pay or status, (d) such other data as may be deemed desirable or useful to produce significant facts pertaining to personnel administration;~~

~~(7) Certify all payrolls for persons in the classified service. No payment for personnel service to any person in the classified service of the city shall be made unless the vouchers bear the certification of the personnel director or his authorized agent that the persons mentioned therein have been appointed and employed in accordance with the provisions of this article;~~

~~(8) Develop and establish training and educational programs for persons in the municipal service;~~

~~(9) Investigate periodically the operation and effect of the personnel provisions of this charter and the rules promulgated thereunder, and report annually his findings and recommendations to the city manager;~~

~~(10) Perform such other and different lawful acts and functions as he may deem necessary or desirable to enforce the purposes and provisions of this article.~~

~~Sec. 47. Personnel board; appointment.~~

~~(a) There shall be a personnel board consisting of six (6) members who shall be appointed as follows: One (1) member by the mayor (without approval of the city council) designated as Group A; one (1) member by the city council designated as Group B; one (1) member by the city council designated as Group C; one (1) member elected by the employees designated as Group D; one (1) member elected by the employees designated as Group E; and one (1) member by the mayor with the approval of the city council who shall be designated the "alternate". No member of the personnel board shall be an employee of the City of North Miami. "Employee" shall mean the employees of the City of North Miami with civil service status. The terms of office of the personnel board members shall run from the second Tuesday in June commencing in 1971 and the initial term for Group A shall be one (1) year; Group B, two (2) years; Group C, three (3) years; Group D, two (2) years; Group E, three (3) years, with all successive appointments for three (3) years. The alternate shall be appointed for a term of three (3) years which shall commence on _____, 2008.~~

~~(b) The personnel director shall prescribe rules, regulations and procedures in connection with election of the two (2) members to the board by the City of North Miami employees.~~

~~(c) Vacancies shall be filled in the same manner as original appointments were made and shall be for the unexpired term of the member whose position is vacated.~~

~~Sec. 48. Personnel board; qualifications.~~

~~Each member shall be a qualified elector of the city and shall be known to be in sympathy with the merit principle as applied to the civil service.~~

~~Sec. 49. Personnel board; compensation.~~

~~Members of the board may be allowed compensation as shall be determined by ordinance for each meeting devoted to the work of the board.~~

~~Sec. 50. Personnel board; powers and duties.~~

~~The board shall have power and shall be required to:~~

~~(1) Advise the personnel director on problems concerning personnel administration;~~

~~(2) Advise and assist the director in fostering the interest of institutions of learning, civic, professional and employee organizations in the improvement of personnel standards in the municipal service;~~

~~(3) Make any investigation which it may consider desirable concerning the administration of personnel in the municipal service, and report to the city manager, at least once each year, its findings, conclusions and recommendations;~~

~~(4) Hear appeals in case any officer or employee in the classified service is suspended, reduced or removed and report in writing to the city manager its findings and recommendations;~~

~~(5) Review the activities of the personnel director and recommend changes in accordance with their findings.~~

~~Sec. 51. Rules.~~

~~(a) Within six (6) months after the appointment of the first director under this article, the director shall prepare and recommend to the board such rules as he may consider necessary, appropriate or desirable to carry out the provisions of this article. After a public hearing thereon, the board shall approve or reject the rules wholly or in part, or may modify them, and approve them as so modified. Rules and amendments thereto which are approved by the board or on which the board takes no action within sixty (60) days after they are recommended by the director, shall be transmitted to the city manager for filing with the council. Rules and amendments thereto shall become effective when approved by the council or on the tenth day after submission if prior thereto the council shall not have rejected them by resolution. Thereafter the board shall have power to amend, repeal or add to the rules on the recommendation of the director or on its own initiative, subject to the requirement of a public hearing and all the other subsequent steps of procedure required herein for adoption of the original set of rules.~~

~~(b) Rules adopted hereunder shall have the force and effect of law. They shall provide for the method of holding competitive examinations, the establishment, maintenance, consolidation and cancellation of eligible lists, administration of classification plan and the pay plan, the application of service ratings, the hours of work, attendance regulation and leaves of absence for employees in the classified service, the order and manner in which layoffs shall be effected, and similar matters of personnel administration.~~

~~(c) The powers herein conferred upon the director shall be subject only to the provisions of this article and of the rules adopted hereunder, and may be exercised by regulation or by order as the director sees fit.~~

~~Sec. 52. Unclassified and classified service.~~

~~The civil service of the city shall be divided into the unclassified and the classified service.~~

~~(a) The unclassified service shall comprise the following offices and positions:~~

~~(1) Members of the city council and other elective officers, and persons appointed to fill vacancies in elective offices;~~

~~(2) The city clerk;~~

~~(3) The city manager and the assistant manager, if any;~~
~~(4) The directors of departments;~~

~~(5) One (1) principal assistant or deputy and one (1) private secretary to the city manager;~~

~~(6) Members of boards and commissions in the city's service;~~

~~(7) Those positions which are either of a temporary nature or which require peculiar and exceptional qualifications of a specific, managerial, professional or educational character which positions do not fall within any existing classification and the duties of which do not fall within the scope of the specifications set up for any existing classification, and which do not warrant the establishment of a new classification or the expansion of the~~

~~specifications in an existing classification because of the temporary nature of the employment.~~

~~(b) The classified service shall comprise all positions not specifically included by this section in the unclassified service.~~

~~Sec. 53. Classification.~~

~~(a) The director of personnel shall prepare and maintain and up to date record of the authority, duties and responsibilities of each position in the classified service. Within one (1) year after the appointment of the first director under this article, the director shall prepare and submit to the personnel board a plan of classification and grading of all such positions according to similarity of authority, duties and responsibilities. The city manager shall submit the classification plan to the council with such changes as he deems desirable and such plan shall take effect when adopted by the personnel board or on the thirtieth day after it is submitted to the personnel board if prior thereto the personnel board has not disapproved it by resolution.~~

~~(b) Changes in the classification plan which the director deems desirable may be recommended and adopted from time to time in the same manner as herein provided for the original adoption of the plan.~~

~~(c) As promptly as practicable after the adoption of the classification plan, and after any amendment thereof, the director shall, with the approval of the city manager, allocate each position in the classified service to the appropriate class therein on the basis of its authority, duties and responsibilities. Thereafter, as new positions are created or additional classes are established, or existing classes are divided, combined, altered or abolished, the director shall make such allocations or reallocations of positions to new or existing classes as are necessitated thereby.~~

~~(d) Following the adoption of the classification plan and the allocation to classes therein of positions in the classified service, the class titles set forth therein shall be used to designate such positions in all official records, documents, vouchers and communications, and no person shall be appointed to or employed in a position in the classified service under any class title which has not been approved by the director as appropriate to the duties to be performed.~~
~~(e) Employees affected by the allocation or reallocation of a position to a class, or by changes in the classification plan, shall be afforded a reasonable opportunity to be heard thereon after filing with the director a written request for a hearing.~~

~~Sec. 54. Promotions.~~

~~Vacancies in higher positions in the classified service of the city shall, as far as practicable, be filled by promotion from lower classes following competitive tests; provided, that in case the civil service board so directs, such positions shall be filled by competitive tests open not only to city officers and employees serving in lower classes, but also to persons not in the service of the city. A change from a position in any class to a position in another class for which a higher maximum rate of pay is prescribed shall be considered a promotion. The director of personnel~~

~~shall, to the extent he considers such action desirable, indicate the principal or normal lines of promotion from and to each class in the class specifications or in regulation.~~

~~Sec. 55. Pay plan.~~

~~The director of personnel shall prepare for the city manager a standard schedule of pay for each position in the classified service: The city manager shall submit the pay plan to the council with such changes as he deems desirable and such plan shall take effect when adopted by the council or on the thirtieth day after it is submitted if prior thereto the council has not disapproved it by resolution. The pay plan adopted by the council shall include a minimum and maximum and such intermediate rates as may be deemed desirable for each class of position. Amendments to the pay schedule may be adopted by the council, from time to time, upon recommendation of the city manager. In increasing or decreasing times in the city budget, the council shall not increase or decrease any individual salary items but shall act solely with respect to classes of positions as established in the classification and pay plans. In no event shall the council reduce the salary of a class below the minimum or raise it above the maximum salary established by the pay plan except by amendment of the pay plan.~~

~~Sec. 56. Pension and retirement system.~~

~~The council shall have authority to establish a pension and retirement system for any or all groups of officers and employees in service of the city. Any such pension and retirement system shall be established on a jointly contributory basis. The cost of the system shall be determined actuarially on the basis of such mortality and service tables as the council shall approve and shall be calculated and contributed as a uniform or decreasing percentage of the payroll of members. No system requiring an increasing percentage of the payroll to be paid as the contribution of either the members or the city shall be established. The provisions of the ordinance establishing such a pension and retirement system shall require periodic actuarial evaluations which shall serve as the basis of any changes in the rates of contributions and shall also provide for the maintenance at all times of adequate reserves. Any officer or employee of the city at the time of the establishment of such system shall have for a reasonable time thereafter the privilege of becoming a member of the system so established and to share its benefits. Officers and employees thereafter appointed in the classified service shall be required to join the system as a condition of employment. Existing local pension and relief funds under the provisions of the state law shall continue as long as such laws are in effect or until the beneficiaries thereof have elected to become members of the system set up in conformity with the provisions of this section; but the beneficiaries of any system under state law may be limited by the provisions of the pension and retirement system created under this section to those officers and employees who were the beneficiaries of such funds at the time of the adoption of a pension and retirement system as herein authorized. No officer or employee of the city may be a beneficiary of a local pension or relief fund established under state law and at the same time a member of a pension and retirement system established hereunder, except Federal Social Security if such is in existence at the time the pension plan is set up. Any pension and retirement system established or administered under the provisions of this section shall be administered by a board of trustees, subject to the approval of the city council.~~

~~Sec. 57. Oaths.~~

~~For the purpose of the administration of the personnel provisions of this charter, any member of the personnel board and personnel director shall have the power to administer oaths.~~

~~Sec. 58. Prohibitions.~~

~~(a) No person in the classified service of the city or seeking admission thereto shall be appointed, promoted, reduced, removed, or in any way favored or discriminated against because of his race or his political or religious opinions or affiliations. No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification, or appointment held or made under the personnel provisions of this charter or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or of the rules and regulations made thereunder. No officer or employee in the classified service of the city shall continue in such position after becoming a candidate for nomination or election to any public office. No person seeking appointment to or promotion in the classified service of the city shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with his test, appointment, proposed appointment, promotion or proposed promotion. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the city. No person holding a position in the classified service of the city shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party, further than in the exercise of his rights as a citizen to express his opinion and to cast his vote.~~

~~(b) Any person who by himself or with others willfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or by imprisonment for a term not exceeding two (2) months, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five (5) years be ineligible for appointment to or employment in a position in the city service, and shall, if he be an officer or employee of the city, immediately forfeit the office or position he holds.~~

ARTICLE VIII. ELECTIONS

Sec. 67. Recall of elected officials.

~~(a) The city council shall, within sixty (60) days after the effective date of this section, adopt an ordinance providing for the adoption of Florida Statute section 100.361, entitled "Municipal Recall" so that the provisions of section 100.361, F.S. (1983) shall apply to the city council of the City of North Miami.~~

~~(b) Said ordinance described in section 67(a) above, shall also contain provisions making the substance of section 100.361, F.S. (1983), as embodied in said ordinance, applicable to the city clerk position, as long as said position is an elected one. Said ordinance shall provide that if the elected official sought to be recalled is the city clerk, then the mayor and council shall request that the chief judge of the circuit court appoint an individual to perform the duties of the clerk set~~

~~forth with regard to recall procedures, and that if the chief judge should decline to so do, the mayor and council shall request that the governor appoint such an individual.~~

~~(c) The city council shall review any changes made from time to time in section 100.361, [F.S.] and may adopt by ordinance enacted by four-fifths of the membership of the city council any revisions to the provisions of section 100.361, F.S. (1983) which are not otherwise applicable to the city.~~

All elected officers of the City of North Miami shall be subject to recall from office in accordance with the provisions of section 100.361 Florida Statutes, as amended, or such other procedure as may be permitted by state law.

****

Section 3. **Election Called.** That an election is hereby called to be held on Tuesday, May 14, 2013, to present to the qualified electors of the City of North Miami, the ballot questions provided in Section 4 of this Resolution. The Mayor and City Council may in the future, call another date of election for any ballot question contained herein, which was not approved by the qualified electors of the City of North Miami.

Section 4. **Form of Ballot.** That the form of ballot for the Charter Amendments provided for in Section 2 of this Resolution shall be substantially as follows:

Ballot Questions:

1. Appraisals required for Sale of Property.

The Charter currently provides that no property of the city be sold for less than ninety (90) percent of the appraised value of the property as determined by one (1) MAI appraisal. It is proposed that the Charter be amended to provide that the city obtain at least two (2) MAI appraisals, to more accurately determine property value.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

2. Council Candidacy Requirement.

The Charter currently does not require a candidate for City Council to show State of Florida identification. It is proposed that the Charter be amended to require a candidate

for City Council to submit a Florida government issued identification with proof of residency showing the candidate has continuously resided in the district for which the candidate is seeking election, one (1) year prior to the time of qualification.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

3. Charter Update.

It is proposed that the Charter be amended to 1) delete outdated and unnecessary provisions, 2) reorganize similar provisions and consolidate redundant language, and 3) remove certain provisions from the Charter to be placed in the appropriate section of the City Code.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

4. Filling of Vacancies.

The Charter currently provides Council vacancies are filled by general or special elections or by appointment by majority of votes of the Councilmembers. It is proposed that the Charter be amended to 1) provide that if the remaining term is six (6) months or longer, the vacancy will be filled by special or regular election, and 2) if less than six (6) months, by the appointment of Council.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

5. Recall of Elected Officers.

The Charter currently follows the same language found in the Statute. It is proposed that the Charter be amended to 1) provide that all elected officers of the City shall be subject to recall from office in accordance with the provisions of Section 100.361, Florida

Statutes, as amended, and 2) remove duplicative and unnecessary language from this Section of the Charter.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

Section 5. **Notice of Election.** That notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in a newspaper of general circulation within the City at least thirty (30) days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing 9th day of April, 2013), and the second publication to be in the third week prior to the election (to-wit: during the week commencing 23rd day of April, 2013), and shall be in substantially the following form:

"NOTICE OF ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. _____ ADOPTED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI, FLORIDA ("CITY"), AN ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE CITY ON TUESDAY, MAY 14, 2013, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSALS SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY FOR APPROVAL OR REJECTION.

1. Appraisals required for Sale of Property.

The Charter currently provides that no property of the city be sold for less than ninety (90) percent of the appraised value of the property as determined by one (1) MAI appraisal. It is proposed that the Charter be amended to provide that the city obtain at least two (2) MAI appraisals, to more accurately determine property value.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

2. Council Candidacy Requirement.

The Charter currently does not require a candidate for City Council to show State of Florida identification. It is proposed that the Charter be amended to require a candidate for City Council to submit a Florida government issued identification with proof of residency showing the candidate has continuously resided in the district for which the candidate is seeking election, one (1) year prior to the time of qualification.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

3. Charter Update.

It is proposed that the Charter be amended to 1) delete outdated and unnecessary provisions, 2) reorganize similar provisions and consolidate redundant language, and 3) remove certain provisions from the Charter to be placed in the appropriate section of the City Code.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

4. Filling of Vacancies.

The Charter currently provides Council vacancies are filled by general or special elections or by appointment by majority of votes of the Councilmembers. It is proposed that the Charter be amended to 1) provide that if the remaining term is six (6) months or longer, the vacancy will be filled by special or regular election, and 2) if less than six (6) months, by the appointment of Council.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

5. Recall of Elected Officers.

The Charter currently follows the same language found in the Statute. It is proposed that the Charter be amended to 1) provide that all elected officers of the City shall be subject to recall from office in accordance with the provisions of Section 100.361, Florida Statutes, as amended, and 2) remove duplicative and unnecessary language from this Section of the Charter.

Shall the above-described Charter Amendment be adopted?

[ ] Yes

[ ] No

Polling place information and the full text of the proposed City Charter Amendments, as set forth in the enabling Resolution, are available at the office of the City Clerk located at 776 N.E. 125th Street, North Miami, FL 33161.

"

City Clerk

Section 6. **Balloting.** That balloting shall be conducted between the hours of 7:00 a.m. to 7:00 p.m. on the date of the election. Absentee ballots shall be available. Early voting shall be provided in conjunction with the general election. All qualified City electors who are timely registered in accordance with law shall be entitled to vote. The City Clerk is authorized to obtain any necessary election administration services from the Miami-Dade County ("County") Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until the date at which the registration books shall close in accordance with the provisions of the general election laws. The City Clerk and the County Supervisor of Elections are hereby authorized to take all appropriate action necessary to carry into effect and accomplish the provisions of this Resolution. Pursuant to City Charter Section 6-46, this election shall be canvassed by the City Council with assistance from the County Supervisor of Elections, or as required by law.

Section 7. **Copies.** That copies of this Resolution proposing Charter Amendments, are on file at the offices of the City Clerk located at 776 Northeast 125 Street, North Miami, Florida 33161, and are available for public inspection during regular business hours.

Section 8. **Effectiveness.** That the Charter Amendment provided for in Section 2 above shall become effective if the majority of the qualified electors voting on the Charter Amendments vote for adoption, and shall be considered adopted and effective upon certification of the election results. That the City Attorney is authorized to revise the Charter to the extent necessary to assure that any amendments adopted conform to one another and are properly included in the publication of the revised City Charter. Further, that in the event that some, but not all, of the Charter amendments are approved by the electors, conforming amendments shall be deemed to be adopted and the City Attorney is authorized to reflect and implement such revisions of the Charter, including the revision of transitional provisions, to the extent necessary to assure that all amendments adopted conform to one another and to all remaining Charter provisions. If conflicting Charter amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. That following the adoption of the Charter amendments, the City Clerk shall file the adopted Charter amendments with the Clerk of the Circuit Court of Miami-Dade County, Florida.

Section 9. **Inclusion in the Charter.** That subject to the requirements of Section 8 above, it is the intention of the Mayor and City Council, and it is hereby provided, that the Charter Amendments shall become and be made a part of the Charter of the City of North Miami, and that the Sections of this Resolution may be renumbered or re-lettered to accomplish such intention.

Section 10. **Severability.** That the provisions of this Resolution are declared to be severable, and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

Section 11. **Conflicts** . That in the event that the provisions of this Resolution conflict with any other City Resolution, the provisions of this Resolution shall prevail to the extent of any such conflict.

Section 12. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, this 26 day of February, 2013.

ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY OF NORTH MIAMI CHARTER REVIEW BOARD

Moved by: Councilman Galvin

Seconded by: Mayor Pierre

Vote:

Mayor Andre D. Pierre, Esq.	x (Yes)	____ (No)
Vice Mayor Marie Erlande Steril	x (Yes)	____ (No)
Councilperson Michael R. Blynn, Esq.	x (Yes)	____ (No)
Councilperson Scott Galvin	x (Yes)	____ (No)
Councilperson Jean R. Marcellus	x (Yes)	____ (No)